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09/775,170	02/01/2001	John M. Svoboda	LIT-PI-480	7280

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EXAMINER
TANG, KAREN C

ART UNIT	PAPER NUMBER
2151	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	09/775,170	SVOBODA ET AL.
Office Action Summary	Examiner	Art Unit	
	Karen C. Tang	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 October 2007</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-17, 21 and 23-41</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-17, 21 and 23-41</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

- This action is responsive to the amendment and remarks file on 10/30/7.

- Claims 1-17, 21, 23-41 are presented for further examination.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-17, 21, 23-41 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the Prior arts Bachner in view of Kizu does not teaches one of the limitations in claims 19, and 29, where "when the dynamic connection is active, all data elements at any of the two or more of the communication nodes are replicated across the dynamic connection to all of the two or more of the communication node".

Examiner disagrees.

Pollard discloses, "when the dynamic connection is active, all data elements at any of the two or more of the communication nodes are replicated across the dynamic connection to all of the two or more of the communication node." (Synchronization, refer to Col 1, Lines 29-36 and Col 2, Lines 55-67).

Applicant argues that the prior art does not teach "if the first and second communication nodes are not determined to be privileged for data replication, disconnecting the dynamic network".

Examiner disagrees.

It is being interprets that the communication device nodes are privileged, is within the communication range, and therefore, formed a dynamic network, and Bachner discloses

Bluetooth technology provide data transfer when the two nodes are in fact, within range, refer to

0027, Lines 16, and 0035, Lines 20-31, so the nodes that are within range are connected on the

network, if not, then it is disconnected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 1-11, 19, 21, 23-25, 29, 30, 31, 36, 37, and 38 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Bachner III et al hereinafter Bachner (US 2007/0055762) in view of

Pollard et al hereinafter Pollard (US 6,549,917).

1. Referring to Claim 1, 19, 29, 30, 31, 36, 37 and 38, Bachner discloses in a method of

replicating data in a network communication system comprising:

utilizing a wireless communication system that does not require reliable network connection (it is

well known that wireless network does not provide reliable network connection);

and which includes a first communication node (wireless phone, refer to 0027, Lines 2) and a

second communication node (WIPS, refer to 0027, lines 1);

at least one communication node of the plurality is mobile and wherein at least one of the

plurality of communication node is an intended archival system, and a storage device located at

each communication node of the plurality (WIPS contains memory that stores data, refer to 0026, Lines 2);

using a first monitor at the first communication node and a second monitor at the second communication node to determine when the first and second communication nodes are within a communication range of each other, wherein at least one of the first and second nodes is mobile (refer to 0027, Lines 16, it is obvious that Bluetooth technology used on both nodes, provides dynamically connected to each other and transfer information when both nodes realized that they are within range); creating a dynamic connection between the first and second nodes while they are within the communication range (Bluetooth technology provides the functionality.);

employing an opportunistic data transfer between the first and second communication nodes across the dynamic connection while the dynamic connection is activated, wherein the opportunistic data transfer comprises (Bluetooth technology provide data transfer when the two nodes are in fact, within range, refer to 0027, Lines 16, and 0035, Lines 20-31):

retaining for future communication, first data element (data at the wireless phone) at the first communication node and second data element (data at WIPS, refer to 0025) at the second communication node when the dynamic connection is inactive (refer to 0030, refer to 0030);

replicating the first data elements and the second data elements at each of the first and second communication nodes by propagating a redundant copy of the first data elements and the second data elements when the dynamic connection is active (refer to 0030 and 0046, and 0052 and 0025, Lines 5-7, also, refer to 0028, updating, Lines 9-10).

Although Bachner disclosed the invention substantially as claimed, Bachner is silent regarding

"after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until the first and second data elements are received by an intended archival system and a command is received to delete or modify the replicated data elements from the network".

"when the dynamic connection is active, all data elements at any of the two or more of the communication nodes are replicated across the dynamic connection to all of the two or more of the communication node."

Pollard, in an analogous art disclosed "after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until the first and second data elements are received by an intended archival system and a command is received to delete or modify the replicated data elements from the network"(refer to Col 9, Lines 39-50) and "when the dynamic connection is active, all data elements at any of the two or more of the communication nodes are replicated across the dynamic connection to all of the two or more of the communication node. (Synchronization, refer to Col 1, Lines 29-36 and Col 2, Lines 55-67)."

Hence, providing the features disclosed by Pollard, would be desired for user to implement to prevent data loss when synchronization get interrupted.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Bachner by including the features eliminates replicating redundant data and reduce the data conflict after replicating.

2. Referring to Claim 2, Bachner discloses replicating includes comparing data stored locally at the first communication node with data stored locally at the second communication node (refer to 0046).

3. Referring to Claims 3, 21, and 23 Bachner discloses if the data stored at the first communication node includes first information that is not stored at the second communication node, the act of replicating includes storing a copy of the first information at the second node (it is obvious that the data are transmit in segments, refer to 0046).

4. Referring to Claims 4, 24, 25, Bachner discloses wherein the first information includes an instruction to delete information (updated information, it is obvious that it can be an delete information, refer to 0046 and 0036).

5. Referring to Claim 5, Bachner discloses wherein the first information includes an instruction to modify information (refer to 0036 and 0046).

6. Referring to Claim 6, Bachner discloses wherein the first communication node includes a first opportunistic data transfer protocol component and the second communication node includes a second opportunistic data transfer protocol component (nodes uses Bluetooth protocol which is the opportunistic data transfer protocol component, refer to 0027).

7. Referring to Claim 7, Bachner discloses wherein the first and second opportunistic data transfer components data transfer protocol components perform the acting of using the first and second monitor and for creating the dynamic connection (Bluetooth technology provide data transfer when the two nodes are in fact, within range, refer to 0027, Lines 16, and 0035, Lines 20-31).

8. Referring to Claim 8, Bachner discloses a plurality of nodes (wireless phone, WIPs, display device, refer to 0027, Lines 1-2), and each nodes consists a monitor which using the first and second monitors and a third monitor (each devices uses Bluetooth protocol, which monitor if the device is within range, and pick up the data another device is trying to transfer, refer to 0027, Lines 14-17), at a third communication node to determine when the first, second and third communication nodes are within communication range, wherein the third communication nodes includes a third opportunistic data transfer protocol component (the third device comprising the Bluetooth protocol which is the opportunistic data transfer protocol components), and wherein at least one of the first, second and third communication nodes is mobile (wireless phone is the mobile, refer to 0027, Lines 1); and including the third communication node in the dynamic connection.

9. Referring to Claim 9, Bachner discloses third data elements at the third communication node, and wherein the act of replicating the first data elements and the second data elements includes replicating the first data elements, the second data elements, and the third data elements among the first, second and third communication node (refer to 0034).

10. Referring to Claim 10, Bachner discloses wherein when at least one of the first, second and third communication nodes is no longer within communication range, excluding the at least one communication node from the dynamic connection (Bluetooth protocol only can transmit within the short range, if the device is out of the range, there will no longer be connection exist automatically.).

11. Referring to Claim 11, Bachner discloses wherein when the at least one communication node is again within communication range, including the at least one communication node in the dynamic connection and continuing to replicate data with at least one communication node across the dynamic connection (refer to 0030, when the device utilizing the Bluetooth protocol, and is within another device within the connection range, it replicate updated data across the connection).

Claims 12-18, 26-28, 32-35, 39, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bachner III et al hereinafter Bachner (US 2007/0055762) in view of Pollard et al hereinafter Pollard (US 6,549,917) in further view of Kizu et al hereinafter Kizu (US 2004/0179511).

12. Referring to Claim 18, Bachner discloses wherein the second and fifth communication nodes are the same communication node.

13. Referring to Claim 12, Bachner discloses wherein the dynamic connection is disconnected

(when the two devices out of range, refer to 0030).

Although Bachner disclosed the invention substantially as claimed, Bachner is silent regarding

"after the replicating, retaining the first data elements and the second data elements at each of the

first and second communication nodes until the first and second data elements are received by an

intended archival system and a command is received to delete or modify the replicated data

elements from the network".

Pollard, in an analogous art disclosed "after the replicating, retaining the first data elements and

the second data elements at each of the first and second communication nodes until the first and

second data elements are received by an intended archival system and a command is received to

delete or modify the replicated data elements from the network"(refer to Col 9, Lines 39-50).

Hence, providing the features disclosed by Pollard, would be desired for user to implement to

prevent data loss when synchronization get interrupted.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the

art to modify the system of Bachner by including the features eliminates replicating redundant

data and reduce the data conflict after replicating.

Although Bachner and Pollard disclosed the invention substantially as claimed, Bachner and

Pollard are silent regarding "having more than three devices and all are having Bluetooth

capability in order to replicating data in the opportunistic way."

Kizu, in an analogous art disclosed "having more than three devices and all are having Bluetooth

capability in order to replicating data in the opportunistic way (refer to Fig 4, how the data can

be replicating in the one to plurality relationship, meaning, one device can transmit data to many

devices, in the opportunistic way/Bluetooth protocol, refer to 0081)."

Hence, providing the features disclosed by Pollard, would be desired for user to implement

because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the

art to modify the systems of Bachner and Pollard by including the features eliminate replicating

redundant data and reduce the data conflict after replicating.

14. Regarding to Claim 13, Although Bachner and Pollard disclosed the invention substantially

as claimed, Bachner and Pollard are silent "regarding wherein the fourth communication node

comprises an intended archival system that includes a storage device."

Kizu, in an analogous art disclosed "wherein the fourth communication node is an intended

archival system that comprises a storage device (each device can stores information, refer to

0052)."

Hence, providing the features disclosed by Pollard, would be desired for user to implement

because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the

art to modify the systems of Bachner and Pollard by including the features eliminate replicating

redundant data and reduce the data conflict after replicating.

15. Referring to Claim 14, Bachner discloses replicating data (refer to 0034).

Although Bachner disclosed the invention substantially as claimed, Bachner is silent regarding

"after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until the first and second data elements are received by an intended archival system and a command is received to delete or modify the replicated data elements from the network".

Pollard, in an analogous art disclosed "after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until the first and second data elements are received by an intended archival system and a command is received to delete or modify the replicated data elements from the network"(refer to Col 9, Lines 39-50). Hence, providing the features disclosed by Pollard, would be desired for user to implement to prevent data loss when synchronization get interrupted.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Bachner by including the features eliminates replicating redundant data and reduce the data conflict after replicating.

Although Bachner and Pollard disclosed the invention substantially as claimed, Bachner and Pollard are silent regarding "having more than three devices and all are having Bluetooth capability in order to replicating data in the opportunistic way."

Kizu, in an analogous art disclosed "having more than 3 devices and all are having Bluetooth capability in order to replicating data in the opportunistic way (refer to Fig 4, how the data can be replicating in the one to plurality relationship, meaning, one device can transmit data to many devices, in the opportunistic way/Bluetooth protocol, refer to 0081)."

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the systems of Bachner and Pollard by including the features eliminate replicating redundant data and reduce the data conflict after replicating.

16. Referring to Claim 15, Although Bachner and Pollard disclosed the invention substantially as claimed, Bachner and Pollard are silent regarding "having more than 3 devices."

Kizu, in an analogous art disclosed more than 3 devices and the device are mobile (refer to 0052, and 0143).

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the systems of Bachner and Pollard by including the features eliminate replicating redundant data and reduce the data conflict after replicating.

17. Referring to Claim 16, Bachner discloses utilizing the Bluetooth protocol (refer to 0027), wherein, the Bluetooth technology is when devices are not within the communication range, the connection is disconnected.

Bachner and Pollard are silent regarding "having more than 3 devices."

Kizu, in an analogous art disclosed system "having more than 3 devices and the device are mobile (refer to 0052, and 0143)."

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the systems of Bachner and Pollard by including the features eliminate replicating redundant data and reduce the data conflict after replicating.

18.   Referring to Claim 17, Bachner discloses replicating data (refer to 0034) and Bachner discloses utilizing the Bluetooth protocol (refer to 0027).

Although Bachner and Pollard disclosed the invention substantially as claimed, Bachner and Pollard are silent regarding system "having more than 3 devices."

Kizu, in an analogous art disclosed system having "more than 3 devices and all are having Bluetooth capability in order to replicating data in the opportunistic way (refer to Fig 4, how the data can be replicating in the one to plurality relationship, meaning, one device can transmit data to many devices, in the opportunistic way/Bluetooth protocol, refer to 0081)."

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Bachner and Pollard by including the features which eliminate replicating redundant data and reduce the data conflict after replicating.

Although Bachner disclosed the invention substantially as claimed, Bachner is silent regarding "after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until the first and second data elements are received by an

intended archival system and a command is received to delete or modify the replicated data elements from the network".

Pollard, in an analogous art disclosed "after the replicating, retaining the first data elements and the second data elements at each of the first and second communication nodes until the first and second data elements are received by an intended archival system and a command is received to delete or modify the replicated data elements from the network"(refer to Col 9, Lines 39-50). Hence, providing the features disclosed by Pollard, would be desired for user to implement to prevent data loss when synchronization get interrupted.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Bachner by including the features eliminates replicating redundant data and reduce the data conflict after replicating.

19. Referring to Claims 26, 27, 28, 34, 35, 40 and 41, Although Bachner and Pollard disclosed the invention substantially as claimed, Bachner and Pollard are silent regarding "wherein when high priority is gathered, the system is further configured for transmitting the high priority data to a desired location through the use of a secure link; wherein the secure link includes one of a cellular link and a satellite link; wherein the high priority data is transferred in real-time."

Kizu, in an analogous art disclosed "wherein when high priority is gathered, the system is further configured for transmitting the high priority data to a desired location through the use of a secure link (refer to 0020); wherein the secure link includes one of a cellular link and a satellite link (refer to 0051); wherein the high priority data is transferred in real-time (Bluetooth allows data being transfer in real time.)."

Hence, providing the features disclosed by Kizu, would be desired for user to implement because it can avoid the data conflict while replicating.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the systems of Bachner and Pollard by including the features eliminate replicating redudant data and reduce the data conflict after replicating.

20. Referring to Claims 32, 33, and 39, although both Bachner and Pollard both are silent on indicating the act of comparing includes comparing the data headers and comparing the file directory information, however, it is obvious of ordinary skill in the art to indicate that the act of replicating or synchronize the updated data from both side of node or computers, require the data's header and the file directory from both side to be compared.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

Norin et al (US 5,794,253) "Time based expiration of data objects in a store and forward replication enterprise" discloses systems and methods of time based data expiration in a replication environment are presented.

Norin (US 5,812,773) "System and method for the distribution of hierarchically structured data" discloses a system and method for replicating hierarchical data is disclosed.

      Examiner's Notes: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

      Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

      A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this
final action.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The
examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Valencia Martin-Wallace can be reached on (571)272-3440. The fax phone number
for the organization where this application or proceeding is assigned is 571-273-8300.

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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